

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSEPH JAMES SVIRBELY, }
Petitioner, }
v. } Civil Action No. 06-222 Erie
DAVID GOODE, et al., }
Respondents. }

MEMORANDUM ORDER

This petition for writ of habeas corpus was transferred from the United States District Court for the Middle District of Pennsylvania and received by the Clerk of Court on September 20, 2006. The case was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation, filed on December 18, 2007, recommends that the petition for writ of habeas corpus be denied and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Coal Township, where he is incarcerated, and on Respondents. Petitioner has filed no objections to Chief Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 1st day of February, 2008,

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DENIED and a certificate of appealability is DENIED.

IT IS FURTHER ORDERED that Plaintiff's motion to appoint counsel is DENIED.

The Report and Recommendation of Chief Magistrate Judge Baxter, filed on December 18, 2007 [24] is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record
Susan Paradise Baxter, Chief U.S. Magistrate Judge